IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE NINETEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

and
THE HON'BLE SRI JUSTICE P.LAKSHMANA REDDY

WRIT APPEAL NO : 1118 of 2005

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 01/07/2004 in WP No : 4574 OF 1994 on the file of the High Court.)

Between:

Ch. Mohana Rao, S/o Satyanarayana, D.No. 7/266, Prasanthinagar, Gopalapatnam, Visakhapatnam-27.

..... APPELLANT

AND

1 Visakhapatnam Port Trust, rep. by its Chairman, Visakhapatnam.
2 Chief Mechanical Engineer, Visakhapatnam Port Trust, Visakhapatnam.

.....RESPONDENTS

Counsel for the Appellant: DR.P.B.VIJAY KUMAR

Counsel for the Respondent NoS.1 & 2: MR.A.KRISHNAM RAJU

The Court made the following :

JUDGMENT: (Per the Hon'ble Smt Justice T.Meena Kumari)

Challenge in this appeal is as to the correctness of the order of the learned single judge rendered in W.P.No. 4574 dated 01-07-2004.

Brief facts, which emerge from the pleadings of the parties are:

The appellant worked as Electrician Grade-III in the 1st respondent-organization for a period of 18 years, prior to his removal from service. Due to his ill-health, he absented from duty from 21.08.1993 to 21.09.1993, for which he was issued a charge memo dated.4.9.1993. Admitting the charges, he submitted his explanation on 25-09-1993 and requested to condone his lapse. Being not satisfied with the explanation, an enquiry was ordered and enquiry report 26-10-1993 was submitted to the disciplinary authority. The disciplinary authority *vide* proceedings dated 10-12-1993 imposed a penalty of removal from service. Feeling aggrieved, he preferred an appeal to the 1st respondent, wherein the punishment imposed by the disciplinary authority was confirmed. Challenging the same, the writ petition has been preferred by the petitioner.

Having gone through the material available on record, and the order impugned, the learned single Judge set aside the impugned order and directed the 1st respondent-organization to consider the case of the petitioner-appellant for reappointment by demoting him by two grades. He further observed that the petitioner-appellant would not be

entitled for any back wages, except for continuity of service and other attendant benefits. Being not satisfied with the same, he preferred the present writ appeal.

Perused the material available on record and order impugned.

Contextual facts depict that the reason assigned by the 1st respondent in imposing the punishment of removal from service on the petitioner-appellant is that he is a habitual absentee. But the contention of the petitioner-appellant is that only due to his ill health, he was absented from the duties and also admitted the charges framed against him. It is conspicuously clear that the petitioner-appellant is a habitual absentee. Without intimation and prior sanction of leave, would certainly cause inconvenience to the work of the organization, and if that being the case a lenient view has to be taken while imposing the punishment. But the punishment imposed by the 1st respondent is disproportionate to the nature of the charges levelled against him. Hence, the findings as arrived at by the learned single Judge are justified.

In the backdrop of the facts and circumstances, as recited above, we are of the view that there is no reason now to interfere with the reasoned order passed by the learned single Judge.

Resultantly, the writ appeal is dismissed.

_____

T.MEENA KUMARI, J

_____

P.LAKSHMANA REDDY, J

19-07-2005

rkk

To

1 Chairman,Visakhapatnam Port Trust, Visakhapatnam.
2 Chief Mechanical Engineer, Visakhapatnam Port Trust, Visakhapatnam.

3. 2 CD copies